

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EARL D. BOOTH,

Plaintiff,

Case No. 23-cv-11629

Hon. Matthew F. Leitman

v.

SCOTT FINK, *et al.*,

Defendants.

ORDER TO ATTEND STATUS CONFERENCE

On Wednesday, July 12, 2023, at 2:30 p.m., the Court will hold a Zoom status conference in this case to discuss Plaintiff's request for expedited proceedings and, if necessary, to schedule those proceedings. The purpose of the conference is not to hear argument on Plaintiff's pending motion. Instead, the purpose is (1) to discuss a preliminary concern that the Court has regarding whether the Eastern District of Michigan is an appropriate venue for this action and (2) to discuss logistics for a possible TRO hearing.

Whether the Eastern District is an appropriate venue may turn on whether Plaintiff has pleaded viable claims against Defendant Fink (who may be a resident of the Eastern District), the sole Defendant with any connection to this District. Plaintiff has asserted claims against Fink under 42 U.S.C. § 1983. However, there is a real question as to whether Fink is amenable to suit under

that statute because it is far from clear that Plaintiff has accused Fink of taking any action under color of state law. While Fink was, for some period of time, apparently employed by the State of Michigan, it does not appear that Plaintiff has alleged that Fink took the actions at issue in this case in his capacity as a state employee. Moreover, the Court has already ruled that a private actor who seeks a personal protection order – as Fink allegedly did here – does not act under the color of law for purposes of Section 1983. *See Lindke v. Lane*, E.D. Mich. Case No. 19-cv-11905, Dkt. No. 125, PageID.3970-3974. If the claim against Defendant Fink is not viable, the sole remaining Defendant is located in Clinton County, Michigan, which is outside of the Eastern District of Michigan. Plaintiff's counsel should be prepared to discuss these issues at the Zoom status conference.

Plaintiff's counsel shall also make every reasonable effort to inform both Defendants about this conference. The Court's staff will email Zoom information to Plaintiff's counsel. He shall share that information with Defendants.

IT IS SO ORDERED.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: July 11, 2023

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on July 11, 2023, by electronic means and/or ordinary mail.

s/Holly A. Ryan

Case Manager

(313) 234-5126